

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**DYAMONE WHITE; DERRICK
SIMMONS; TY PINKINS;
CONSTANCE OLIVIA SLAUGHTER
HARVEY-BURWELL**

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:22-cv-00062-SA-JMV

**STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES
*in his official capacity as Governor of
Mississippi; LYNN FITCH in her
official capacity as Attorney General of
Mississippi; MICHAEL WATSON in
his official capacity as Secretary of
State of Mississippi***

DEFENDANTS

DEFENDANTS' MOTION FOR THE COURT TO TAKE JUDICIAL NOTICE

Defendants State Board of Election Commissioners, Tate Reeves, in his official capacity as Governor of Mississippi, Lynn Fitch, in her official capacity as Attorney General of Mississippi, and Michael Watson, in his official capacity as Secretary of State (collectively "Defendants") submit this Motion requesting the Court take Judicial Notice of the facts and information identified in and attached to this Motion under Rule 201(b) and 201(c)(2) of the Federal Rules of Evidence. In support of this Motion, Defendants state as follows:

1. Defendants seek judicial notice of the following facts: Census data from the U.S. Census Current Population Survey's Reported Voting and Registration, by Sex, Race and Hispanic

Origin, for States in 1986, 1988, 1990, 1992, 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, 2010, 2012, 2014, 2016, 2018, 2020, and 2022.¹

2. “The court must take judicial notice if a party requests it and the court is supplied with the necessary information.” FED. R. EVID. 201(c)(2). “The doctrine of judicial notice permits a judge to consider a generally accepted or readily verified fact as proved without requiring evidence to establish it.” *United States v. Berrojo*, 628 F.2d 368, 369 (5th Cir. 1980). Taking judicial notice of Census data is appropriate, relevant for this case, and will streamline the presentation of evidence at trial. *See Shelby County, Ala. v. Holder*, 570 U.S. 529, 535 (2013) (using Census Bureau data to determine that “African-American voter turnout has come to exceed white voter turnout in five of the six States originally covered by § 5[.]”); *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571-72 (5th Cir. 2011).

3. Under Federal Rule of Evidence 1006, Defendants include, as Exhibit T, a table summarizing the data above.

4. In support of this Motion, Defendants incorporate their supporting Memorandum being filed simultaneously with this Motion. Plaintiffs have advised Defendants that they intend to oppose this Motion.

WHEREFORE, Defendants State Board of Election Commissioners, Tate Reeves, in his official capacity as Governor of Mississippi, Lynn Fitch, in her official capacity as Attorney General of Mississippi, and Michael Watson, in his official capacity as Secretary of State request that the Court grant Defendants’ Motion for Judicial Notice and take judicial notice of the above-listed facts as “generally known within the trial court’s territorial jurisdiction” and facts which

¹ Attached as Exhibits A through S are the Tables from the Census Current Population Surveys in 1986 through 2022.

“can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b).

This the 26th day of July, 2024.

Respectfully submitted,

DEFENDANTS STATE BOARD OF ELECTION
COMMISSIONERS, TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI, LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
MISSISSIPPI, AND MICHAEL WATSON, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
STATE OF MISSISSIPPI

/s/ Charles E. Cowan

CHARLES E. COWAN (MSB #104478)
MICHAEL B. WALLACE (MSB #6904)
WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, Mississippi 39205-0651
Tel.: (601) 968-5500
Fax: (601) 944-7738
mbw@wisecarter.com
cec@wisecarter.com

REX M. SHANNON III (MSB #102974)
BETH WINDSOR USRY (MSB #99267)
JUSTIN L. MATHENY (MSB #100754)
STATE OF MISSISSIPPI
OFFICE OF THE ATTORNEY GENERAL
CIVIL LITIGATION DIVISION
Post Office Box 220
Jackson, Mississippi 39205-0220
Tel.: (601) 359-4184
Fax: (601) 359-2003
rex.shannon@ago.ms.gov
beth.usry@ago.ms.gov
justin.matheny@ago.ms.gov

CERTIFICATE OF SERVICE

I, Charles E. Cowan, one of the attorneys for the above-named State Defendants, do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF filing system, which sent notification of such filing to all counsel of record.

THIS the 26th day of July, 2024.

s/ Charles E. Cowan
CHARLES E. COWAN